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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,576	08/27/2002	Lewis Dewi	NIDN-73247	3162

36335 7590 02/28/2006

AMERSHAM HEALTH  
IP DEPARTMENT  
101 CARNEGIE CENTER  
PRINCETON, NJ 08540-6231

EXAMINER
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JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
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1618

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/009,576

Applicant(s)

DEWI ET AL.

Examiner

D. L. Jones

Art Unit

1618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-6,8-10,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 8-10, 13, and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **ACKNOWLEDGMENTS**

1. The Examiner acknowledges receipt of the amendment filed 11/8/05 wherein claims 1 and 8 are amended and claims 2, 3, 7, 11, 12, and 15 are canceled. In addition, the Examiner acknowledges receipt of the acceptable RCE filed 11/8/05.

**Note:** Claims 1, 4-6, 8-10, 13, and 14 are pending.

## **RESPONSE TO APPLICANT'S AMENDMENT/ARGUMENTS**

2. The Applicant's arguments filed 11/8/05 to the rejection of claims 1, 4-6, 8-10, 13, and 14 made by the Examiner under 35 USC 103 and/or 112 have been fully considered and deemed persuasive-in-part for the reasons set forth below.

### **112 Rejection**

The 112 rejections are WITHDRAWN.

### **103 Rejection**

The rejection of claims 1, 4-6, 8-10, 13, and 14 under 35 USC 103(a) as being unpatentable over Suthanthiran et al (US Patent No. 4,994,013) is MAINTAINED for reasons of record in the office action mailed 11/30/04 and those set forth below.

Applicant asserts that the instant invention is distinguished over the prior art of record because Suthanthiran et al fails to disclose, teach, or suggest that the radioactive material is adsorbed onto a substrate as in the claimed invention. In addition, Applicant asserts that there is no motivation in the prior art for adsorbing a radioisotope to the surface of the substrate or encapsulate the pellet within a biocompatible container as in the instant invention.

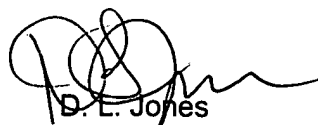
Applicant's arguments are non-persuasive because the cited prior art discloses that absorption of the radioactive material may occur (see the abstract, for example). Thus, a skilled practitioner using any standard chemical dictionary (i.e., Hawley's, Twelfth Edition Condensed

Chemical Dictionary, by Richard Lewis, Sr.) would recognize that absorption in chemical terminology is the penetration of one substance into the inner structure of another, as distinguished from adsorption in which one substance is attracted to and held on the surface of another. As a result, it is noted that the amended claims do not exclude material being absorbed onto the surface. Also, an analogy of the prior art may be that of a sponge and a liquid. The sponge absorbs the liquid which results in liquid being present within the structure of the sponge and on the surface of the sponge..

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
D. L. Jones  
Primary Examiner  
Art Unit 1618

February 21, 2006